



**State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES**

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-3503 · FAX (603) 271-2982



Mr. Arend Tensen and Ms. Paula Balch
53 Smith Mountain Road
Lyme, NH 03768

**LETTER OF DEFICIENCY
WD WQE 02-11**

November 13, 2002

RE: Smith Mountain Road, Lyme NH

Dear Mr. Tensen and Ms. Balch:

On July 16, 2002 personnel from the Department of Environmental Services ("DES") conducted an inspection of the above referenced property, more specifically referenced on Town of Lyme Tax Map 414 as Lot 15 (the "Property"). The purpose of the inspection was to determine if work performed on the Property was in compliance with RSA 485-A:17.

During the inspection the following was documented:

1. Site disturbance exceeded 100,000 sq. ft.
2. Temporary erosion control measures were not in place.
3. Wetlands on the Property had been dredged.
4. A review of DES records indicates that the DES Site Specific Program has not issued a permit for alteration of terrain impacts on the Property.
5. A review of DES records indicates that the DES Wetlands Bureau has not issued a permit for wetland impacts on the Property.

On July 22, 2002, DES personnel spoke with Mr. Tensen by telephone. During the telephone conversation, DES personnel notified Mr. Tensen of the impacts observed during the July 16, 2002 inspection and discussed remediation for these impacts. Mr. Tensen offered to contact an engineering firm to prepare an after-the-fact site specific permit application for alteration of terrain impacts on the Property, and a restoration plan for impacted wetlands on the Property.

As of November 12, 2002, DES has not received an after-the-fact site specific permit application for alteration of terrain impacts on the Property, or a restoration plan for the impacted wetlands on the Property.

In response, you are requested to:

1. Voluntarily refrain from carrying out any additional work on the Property, except for siltation

and erosion control measures, until proper authorization to proceed has been obtained.

2. Within 10 days of receipt of this letter, prepare a temporary stabilization plan ("Plan") for the Property, and submit said Plan to DES for approval. The Plan shall include a schedule for implementing the measures described in the Plan.

3. Implement the approved Plan according to the schedule detailed in the Plan

4. Within 30 days of the date of this letter, submit to DES an application for a Site Specific permit for the Property. The application shall be prepared by an engineer licensed in the State of New Hampshire, and in accordance with Env-Ws 415.05.

5. Within 20 days of the date of this letter, submit a restoration plan for the restoration and/or mitigation of the impacted wetlands and surface waters to DES for review and approval. The restoration plan shall be prepared by a certified wetland scientist, and shall include:

- a. A plan with dimensions, drawn to scale, showing
 - i. existing conditions on the sites, with wetland boundaries and land topography; and
 - ii. proposed conditions after reestablishing the jurisdictional areas;
- b. A detailed description of the proposed means of erosion control (silt fence, hay bales etc) and stabilization of the restoration area;
- c. A detailed description of the proposed planting plan for the stabilization and revegetation of the restoration and mitigation areas;
- d. A description of the proposed construction sequence, equipment, methods for accomplishing restoration and anticipated restoration compliance date.
- e. A description of the method of documenting at least 75% survival of all vegetation planted during the restoration project. This should include a monitoring progress report for one growing season following completion of the restoration project. This report should be submitted to DES on September 15, 2003.

6. Retain a certified wetland scientist to supervise the implementation of the restoration plan prepared in accordance with Item 5 above and to submit the restoration progress reports.

7. Implement the restoration plan proposed in accordance with Item 5 above only after receiving written approval and as conditioned by DES.

DES believes that these deficiencies can be corrected within the time frames specified. Failure to respond to this Letter of Deficiency in a timely and complete manner will be construed as

noncompliance. DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statutes and rules.


Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 485-A and/or RSA 482-A may result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for prosecution of civil or criminal penalties. If an order is issued to you for violations on the Property, it would also be recorded with the Registry of Deeds as an encumbrance against the Property.

Documents submitted to DES in response to this Letter of Deficiency should be mailed to:

Ana Ford, Compliance Specialist
Site Specific Program
Department of Environmental Services
6 Hazen Drive, PO Box 95
Concord, NH 03302-0095

If you have any questions please feel free to contact me at (603) 271-2303.

Sincerely,


COPY
Ridgely Mauck, P.E.
Site Specific Program

CERTIFIED MAIL: 7099 3400 0002 9772 6294

cc: Rene Pelletier, DES Land Resources Manager
Mark Harbaugh, DES Enforcement Attorney
Lyme Conservation Commission
Lyme Board of Selectmen